

### Judge Robb, cont.

diana State Bar Foundation and a Senior Distinguished Fellow of the Indianapolis Bar Foundation. She is a frequent speaker on legal topics for attorneys, other judges, and professional, civic and community organizations.

Judge Robb was Founding Chair of Governor Bowen's Commission on the Status of Women; was a recipient of a 1993 Indiana State Bar Association's "Celebrating 100 Years of Women in the Legal Profession" award; the 2001 Maynard K. Hine distinguished alumni award given in recognition of support and service to IUPUI and Indiana University; the 2004 Bernadette Perham "Indiana Women of Achievement" Award, bestowed by Ball State University to honor of one of their outstanding professors; the 2005 Indiana State Bar Association's Women in the Law Recognition Award; the 2006 Tippecanoe County YWCA Salute to Women "Women of Distinction" Award; the 2007 Warren G. Harding High School, Warren, Ohio, Distinguished Alumni Award; the 2010 Indiana University Alumni Association President's Award, a 2010 Indiana Lawyer Distinguished Barrister Award, the 2011 Indianapolis Bar Association Women and the Law Committee's Antoinette Dakin Leach Award and the 2011 David Hamacher Award from the Appellate Practice Section of the Indiana State Bar Association.

Judge Robb chairs the Supreme Court Task Force on Family Courts and is involved in several projects to benefit the Indiana legal system. She also

chaired the Supreme Court task force for the development of Trial Court Local Rules, has also served as a member of the Indiana Board of Law Examiners, the Governance Committee of the Supreme Court IOLTA (Interest on Lawyer Trust Account) Committee; the Federal Advisory Committee on Local Rules for the Federal Court for the Northern District of Indiana; and the Federal Advisory Committee for the Expediting of Federal Litigation.

Judge Robb authored "Reflections of Baseball, Life and the Law" in the Indiana State Bar Association's journal, *Res Gestae* and "Running Bases, Winning Cases: Why the Grand Old Game of Baseball is like the legal profession" in the ABA's journal. She also authored a chapter on Supreme Court Justice Leonard Hackney in, *Indiana Supreme Court Justices*, and co-authored a chapter, "From Juvenile Courts to Family Courts," in *Essays on Indiana Legal History*.

In addition, she serves on the ABA Committee that accredits law schools and chaired the 2010 ABA's Appellate Judges Council-Appellate Judges Education Institute's national Summit for Judges, lawyers and Staff attorneys. Judge Robb is an elected member of the American Law Institute (ALI).

Judge Robb was retained on the Court of Appeals in 2000 and 2010, is married to a professor at Purdue University. Their son, a graduate of the United States Naval Academy, is a lieutenant on active duty in the United States Navy.

### What happens after oral argument?

After oral argument, a designated writing judge drafts an opinion for the others' review. Final language may involve several drafts and significant collaboration.

Generally, opinions affirm or reverse lower court rulings in whole. But some affirm in part, some reverse in part, and some do both. Not infrequently, the opinion instructs the trial court about the next appropriate course of action.

Many opinions are unanimous, although non-unanimous decisions (2-1) are not uncommon. Dissenting judges usually express their views in a separate opinion that becomes part of the permanent record of the case. Judges might also write separate, concurring opinions that emphasize different points of law or facts than the main opinion.

No rules or laws govern how fast the court must issue an opinion. But the court strives to decide cases within four months of receiving all briefs, transcripts and other records.

Once issued, all opinions are published on [www.courts.in.gov](http://www.courts.in.gov) and maintained in the permanent records of the Clerk of Appellate Courts.

Parties can appeal Court of Appeals decisions to the Indiana Supreme Court by filing a petition to transfer within a prescribed number of days. But transfer is not automatic; the Supreme Court can grant or deny transfer with or without giving a reason.

### For the Appellant

A member of Frost Brown Todd, **Julia Blackwell Gelinas** chairs the Firm's appellate practice group and is the former chair of the Locke Reynolds appellate practice group.

She continues to practice in appellate, construction, fidelity and surety, and other commercial matters. She also represents lawyers before the Indiana Supreme Court Disciplinary Commission.

Julia served as chair of the management committee of the former Locke Reynolds law firm from 2000 to 2005, one of very few women to hold that title in Indianapolis. A well-respected national leader in the profession, she is a frequently requested speaker.

She graduated *cum laude* from Saint Mary's College, Notre Dame, IN in 1975 and earned her law degree *cum laude* from Indiana University School of Law in 1978.

### For the Appellees

**Jon R. Pactor** has been a solo practitioner his entire career starting in 1976. For about the last 35 years, he has concentrated his practice on legal malpractice and fee disputes usually on the client's side. He also provides ethical counseling to lawyers. He has handled an estimated 50 appeals in Indiana and the Seventh U.S. Circuit Court of Appeals.

He graduated Phi Beta Kappa from Wabash College, Crawfordsville, in 1971. He earned his law degree from the Indiana University Robert H. McKinney School of Law in 1976. He has spoken to lawyers at many legal seminars and to students at law schools on legal malpractice, attorney fees, legal ethics, and wrongful use of court proceedings.

He volunteers for Wabash College, Tau Kappa Epsilon, bar associations, First Baptist Athletics in Indianapolis, and other causes. He lives happily with his wife Andrea Pactor in Indianapolis. They have two adult children.

## SYNOPSIS

The instant matter involves questions relating to the duty owed to clients of a law firm when one of the clients' counsel of record resigns from his employment from the firm over concerns about potential ethical violations concerning the misappropriation of client funds that may have been committed by his co-counsel.

On appeal, Appellant-Defendant Timothy Devereux and Appellees-Plaintiffs Jim and Diana Love challenge the trial court's order denying each of their competing motions for summary judgment.

Specifically, the parties challenge the trial court's determination that an issue of material fact exists as to whether Devereux, in his prior position as counsel of record for the Loves, breached a duty owed to the Loves when he resigned from his employment at the law firm representing the Loves without notifying the Loves of his concerns relating to potential ethical violations committed by and the honesty and trustworthiness of the Loves' remaining counsel at the firm.

#### Court of Appeals Mission Statement

To serve all people by providing equal justice under law.

## Court of Appeals of Indiana

*Hearing oral argument at  
Indiana State University  
Thursday, March 5, 2015 @ 1 p.m.*



*Devereux v. Love*  
**49A02-1404-CT-260**

*On Appeal from Marion Superior Court  
The Honorable Patrick L. McCarty, Judge*



Judge Bradford, cont.

Initiative, which resulted in a comprehensive yet responsible reduction of juvenile pretrial incarceration in Marion County that is now a statewide model.

Before joining the bench, he was recruited by Marion County Prosecutor Scott Newman as Chief Trial Deputy, in which capacity he managed a staff of more than 100 attorneys for two years. He also served five years as an Assistant United States Attorney for the Southern District of Indiana, where he prosecuted major felony drug cases under United States Attorney Deborah J. Daniels. He was in private legal practice from 1986 to 1991.

A native Hoosier, Judge Bradford earned a B.A. in labor relations and personnel management from Indiana University-Bloomington in 1982 and his J.D. from Indiana University School of Law-Indianapolis in 1986. He is the Court of Appeals’ liaison to

the Indiana Judges Criminal Instructions Committee, which provides guidance to judges on jury instructions in criminal cases, and he is a former member of both the Indiana Judges Criminal Policy Committee and the Board of Directors of the Indiana State Judicial Conference.

Judge Bradford is a Distinguished Senior Fellow of the Indianapolis Bar Association and a member of the Marion County Bar Association, Kosciusko County Bar Association, Indiana State Bar Association, American Bar Association, and the Sagamore Inn of Courts. He has taught Indiana Continuing Legal Education Foundation trial practice seminars for more than 10 years and also teaches Forensic Science and the Law at Indiana University-Purdue University Indianapolis, where he is an adjunct instructor.

Judge Bradford is well versed in contemporary technology and media issues, having served on the Judicial Technolo-

gy and Automation Committee (JTAC), helping to draft the state judiciary’s policies on technology and case management. From 2005 to 2007, he hosted “Off the Bench with Judge Cale Bradford,” a legal commentary program on Marion County’s government access network.

He frequently lectures on a wide range of legal topics and in 2012 will serve as a Vice President of the Indianapolis Bar Association and on the Indiana State Bar Association Appellate Practice Section Executive Committee.

Judge Bradford is a former director of the John P. Craine House in Indianapolis, a residential alternative to incarceration for women offenders with pre-school-aged children. He is a former advisory board member of the Lawrence Youth Football League and has long been active at Castleton United Methodist Church.

He and his wife, Sam, a full-day kindergarten teacher, have five adult children.

Judge Riley, cont.

Alumni Association, and a member of the Indianapolis Rotary Club.

She also has extensive international legal experience. In 2008, she co-founded the Legal Aid Centre of Eldoret, Kenya (LACE), which provides legal access to justice in the AMPATH medical center for its HIV/AIDS patients.

In 2011, Judge Riley traveled with the Washington, D.C.-based International Judicial Academy to The Hague, Netherlands, to observe the International Criminal Court and two International Criminal Tribunals that are hearing cases from Sierra Leone and the former Yugoslavia.

In 2012 she participated in the 3rd Sino-U.S. Law Conference at the National Judges College of the People’s Republic of China, which oversees all aspects of that country’s judicial training, placement and promotion.

In 2013, she lectured on judicial ethics at the Justice Academy of Turkey and in 2014 joined an Indiana University team of legal observers at the U.S. detention facility at Guantanamo Bay, Cuba.

Judge Riley is the mother of two sons. She was retained on the Court by election in 1996 and 2006 and later served as presiding judge of the court’s Fourth District.

Notable Quotations About Justice and the Courts

The complete independence of the courts of justice is peculiarly essential in a limited Constitution.

- Alexander Hamilton, Federalist 78

It is emphatically the province and duty of the Judicial Department to say what the law is. Those who apply the rule to particular cases must, of necessity, expound and interpret that rule. If two laws conflict with each other, the Courts must decide on the operation of each.

- Chief Justice John Marshall

Whatever disagreement there may be as to the scope of the phrase "due process of law" there can be no doubt that it embraces the fundamental conception of a fair trial, with opportunity to be heard.

- Justice Oliver Wendell Holmes, Jr.

The ultimate touchstone of constitutionality is the Constitution itself and not what we have said about it.

- Justice Felix Frankfurter

Law matters, because it keeps us safe, because it protects our most fundamental rights and freedoms, and because it is the foundation of our democracy.

- Justice Elena Kagan

Most high courts in other nations do not have discretion, such as we enjoy, in selecting the cases that the high court reviews. Our court is virtually alone in the amount of discretion it has.

- Justice Sandra Day O’Connor

Restriction on free thought and free speech is the most dangerous of all subversions. It is the one un-American act that could most easily defeat us.

- Justice Thurgood Marshall

The day you see a camera come into our courtroom, it’s going to roll over my dead body.

- Justice David Souter

Today’s Panel of Judges



The Honorable  
Margret G. Robb

Tippecanoe County



The Honorable  
Patricia A. Riley

Jasper County



The Honorable  
Cale J. Bradford

Marion County

**Margret G. Robb** was appointed to the Court of Appeals of Indiana in July 1998 by Governor Frank O’Bannon. She holds a B.S. and an M.S. in Business Economics from Purdue University, a Magna Cum Laude J.D. from Indiana University Robert H. McKinney School of Law and is a graduate of the Graduate Program for Indiana Judges. In 2011 she began a three year term as chief judge; the first woman to hold that position in the Court’s more than 100 year history.

Prior to her appointment to the Court, Judge Robb was, for 20 years, engaged in the general practice of law in Lafayette, and served as a Chapter 11, 12 and a standing Chapter 7 Bankruptcy trustee for the Northern District of Indiana. She was a registered family and civil mediator and served as a Tippecanoe County Deputy Public Defender.

She has been an officer of the Indiana State Bar Association, the Fellows of the Indiana State Bar Foundation, Tippecanoe County Bar Association, National Association of Women Judges, the Indiana University School of Law- Indianapolis Alumni Association and the Bankruptcy Section of the Indiana State Bar Association.

She has also been a Board member of the Appellate Judges Council of the American Bar Association, the Indianapolis Bar Association, the Indianapolis Bar Foundation, the Senior Council Section of the Indianapolis Bar Association, the Appellate Practice Section of the Indiana State Bar Association and the Appellate Judges Education Institute.

She was the moderator for the 2005-2006 and Chair for the 2006-2007 Indianapolis Bar Association’s Bar Leader Series, and is a member of the American Bar Foundation, American Judicature Society, a Master Fellow of the In-

- continued on p. 4

**Patricia A. Riley** was named to the Court of Appeals of Indiana by Governor Evan Bayh in January of 1994. A native of Rensselaer, IN, Judge Riley earned her bachelor’s degree from Indiana University-Bloomington in 1971 and her law degree from the Indiana University School of Law-Indianapolis in 1974.

Early in her career she served as a Deputy Prosecutor in Marion County and a public defender in Marion and Jasper counties before entering into private practice in Jasper County. She served as a judge of the Jasper Superior Court from 1990 to 1993. She is a former associate professor at St. Joseph’s College in Rensselaer and currently an adjunct professor at the Indiana University School of Law-Indianapolis.

Judge Riley’s legal memberships include the Indianapolis Bar Association, the Marion County Bar Association, and the Indiana State Bar Association, including co-chair of the ISBA’s Racial Diversity in the Profession Section; member, Women in the Law Committee; and member, Committee on Improvements in the Judicial System.

Judge Riley is the former chair of the Appellate Practice Section of the American Bar Association, and a member of the ABA’s Judicial Division International Courts Committee. She is a member of the Indiana Judges Association and the Board of Directors of the National Association of Women Judges.

Judge Riley’s civic associations include being on the Board of Directors of the Greater Indianapolis Health Foundation, Board of Directors of Global Peace Initiatives, Board of Directors and Treasurer of the Indiana University School of Law–Indianapolis

- continued on p. 2

**Cale J. Bradford** has broad experience in both the state and federal legal systems, including service as a Marion County deputy prosecutor, a public defender, a federal prosecutor, a trial court judge and an appellate court judge. In addition, he has six years’ experience in private legal practice.

He was appointed to the Court of Appeals of Indiana by Gov. Mitch Daniels and took his seat on Aug. 1, 2007. In that time, he has participated in more than 2,000 appellate decisions and more than 80 oral arguments. He has written more than 700 majority decisions, including 145 published opinions. Judge Bradford also led a successful effort to encourage the mediation of legal disputes pending before the Court of Appeals, and greatly contributed to creation of the Judicial Retention website that helps voters make informed decisions about Appellate Judges standing for retention election.

Before joining the Appeals Court, he served the people of Marion County for more than 10 years as Judge of the Marion Superior Court, including seven years in the criminal division and three in the civil division. Twice, his colleagues elected him as presiding judge of the Court.

During that tenure, Judge Bradford led two major initiatives that addressed critical criminal justice issues facing Marion County. He chaired the Marion County Criminal Justice Planning Council, which recommended improved responses to jail overcrowding, staffing and budgets. Those efforts led to the end of 30 years of federal oversight of the Marion County Jail and to security improvements at the county’s Juvenile Detention Center. He also led implementation of the Annie E. Casey Foundation Juvenile Detention Alternative

- continued on p. 2